

Letter of Findings: 01-20182070
Individual Income Tax
For the Tax Year 2015

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Married couple failed to provide documentation supporting their position that the Department's proposed assessment of additional Indiana individual income tax was incorrect for the year at issue.

ISSUE

I. Income Tax-Burden of Proof Assessment Incorrect.

Authority: IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayers protest the imposition of Indiana individual income tax for tax year 2015.

STATEMENT OF FACTS

Taxpayers, a married couple, filed their 2015 Indiana tax return on March 8, 2016. On their return, Taxpayers claimed a refund due of \$815. The Indiana Department of Revenue ("Department") used this refund to offset some of Taxpayers' unrelated liabilities. In August of 2018, based on information from the Internal Revenue Service (IRS), the Department adjusted Taxpayers' 2015 return which resulted in a decrease in Taxpayers' refund. The Department issued Taxpayers a proposed assessment for the amount of the decrease, plus penalty and interest.

On October 3, 2018, Taxpayers filed a protest of the assessment with the Department. Along with the protest letter, Taxpayers provided a Protest Submission Form, in which they requested a hearing with the Department. On October 4, 2018, the Department sent Taxpayers a letter requesting that they provide the Department with a copy of their 2015 Federal Record of Account Transcript. Taxpayers did not respond to this request, and, in a letter dated December 6, 2018, the Department informed Taxpayers that their hearing would be held on December 27, 2018.

Prior to the hearing, Taxpayers contacted the Department to reschedule the hearing. The Department agreed to reschedule the hearing if Taxpayers provided their Federal Record of Account Transcript ahead of time. On December 28, 2018, the Department emailed Taxpayers with explicit instructions on how to obtain their Federal Record of Account Transcript. Taxpayers never responded to this email nor did they provide the Department with their Federal Record of Account Transcript. Thus, this Letter of Findings is based on the information available to the Department and provided in Taxpayers' protest file.

I. Income Tax-Burden of Proof Assessment Incorrect.

DISCUSSION

Due to an adjustment to Taxpayers' 2015 Federal income tax return, the Department adjusted Taxpayers' Indiana 2015 tax return, resulting in a decrease in the refund due to the Taxpayers. The Department assessed Taxpayers for the amount of the decrease plus penalty and interest. Taxpayers protested the assessment but failed to attend the scheduled hearing or provide the Department with requested documentation.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2011).

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). A taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In August of 2018 the Department adjusted Taxpayers' 2015 Indiana income tax return based on information it received from the IRS. The Department then issued Taxpayers a proposed assessment as a result of the adjustment. Taxpayers protested the assessment and provided copies of their original 2015 Indiana return. In the accompanying letter, Taxpayers generally stated that they wanted to "complain about the proposed assessment" and asked the Department for a "written statement explaining [the Department's] position and what you will do about my complaint." Taxpayers also submitted a Protest Submission Form requesting an administrative hearing.

The Department reviewed Taxpayer's protest and in a letter to Taxpayers dated October 4, 2018, informed Taxpayers that the assessment "is the result of a discrepancy between your Federal Adjusted Gross Income (FAGI) amount compared to the amount indicated on line [one] of your Indiana state return." The letter went on to state that if Taxpayers disagreed with the adjustment, they should provide a copy of their 2015 Federal Record of Account Transcript to the Department by November 8, 2018. The Department's letter also provided two means through which Taxpayers could obtain their Federal Record of Account. When Taxpayers did not respond to this request, the Department scheduled a hearing. Taxpayers asked to reschedule the hearing, which the Department agreed to do if the Taxpayers provided their Federal Record of Account Transcript ahead of time. Taxpayers have not responded to this request.

By statute, the Department's calculation of Indiana tax begins with Taxpayers' federal adjusted gross income. It is Taxpayers' burden to prove that the Department's assessment is incorrect. In doing so, the Taxpayers are required to provide documentation to support their position. Without Taxpayers' Federal Record of Account, the Department cannot begin to determine whether or not Taxpayers' protest has any merit. Thus, Taxpayers have failed to meet their burden under IC § 6-8.1-5-1(c). Taxpayers' protest is denied.

FINDING

Taxpayers' protest is denied.

January 30, 2019

Posted: 03/27/2019 by Legislative Services Agency
An [html](#) version of this document.